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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/983,394	08/05/2002	S. Douglas Falls	5071X002	1379

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PILLSBURY WINTHROP SHAW PITTMAN, LLP  
P.O. BOX 10500  
MCLEAN, VA 22102

EXAMINER

FISCHER, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 08/983,394	<b>Applicant(s)</b> FALLS ET AL.	
	<b>Examiner</b> Andrew J. Fischer	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 72-132 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 93-98, 118-126 and 132 is/are allowed.
- 6) ☒ Claim(s) 72-92, 99-117 and 127-131 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 117 and 127-131 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A database by definition can not produce a useful concrete and tangible result.

### ***Claim Rejections - 35 USC §112 2<sup>nd</sup> Paragraph***

The following is a quotation of the 2<sup>nd</sup> paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 72-78 , and 127-131 are rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims remain replete with errors. Some examples follow.

In claims 72 and 77, Applicants begin “A printed label for . . . .” Thus, logic dictates that claims 72 and 77 are directed to only a printed label. However the body of the claim now recites that the printed label “is coextensive with the entire horizontal dimension of the area of the space allocated on the shelf for arranging the product thereon.” Thus it is unclear if Applicant are claiming just the “printed label” as stated in the preamble or a combination of the printed label in addition to the shelf on which or of which the label is a part of.

In claims 79 and 99, it is unclear what is a planogram.

In claim 99, it is unclear what is “a graphic edge.”

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In claim 125, it is unclear if “a product” as recited in line 7 is the same or different from “at least one or more products” as recited in line 3 and “products” in line 1.

In claim 127, the same combination/subcombination arguments as noted above in section 8(a) also apply since it is unclear if Applicants are claiming a “database” or a database in combination with a shelf.

### ***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 92 are rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art as disclosed in Applicants specification. The prior art discloses “pricing a label for each shelf of a predetermined number of shelves of a business establishment; wherein information printed on each label identifies one or more products (description or item ID). The prior art does not directly disclose printing new labels for a price change.

However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the disclosed prior art to include pricing a new label for a price change. Such a modification would have made the label look more professional since instead of crossing out the old price with a marker to reflect a new price, the user would simply print out a new label with the new price. The Examiner interprets ‘if’ language as conditional.

*Allowable Subject Matter*

Claims 72-91 and 93-132 as understood by the Examiner are allowable because the prior art does not disclose that the shelf label being formed to a predetermined length that is coextensive with the entire horizontal dimension (the depth dimension when view from e.g. the side) of the area of the space allocated on the shelf. This assumes Applicants overcomes the 101 or 112 rejections (if any) noted above.

Applicants arguments filed December 14, 2005 have been fully considered but they are not persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Fischer whose telephone number is (571) 272-6779.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3/26/06

Andrew J Fischer  
Primary Examiner  
Art Unit 3627

AJF  
March 26, 2006